

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRYAN EAGLES,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:20-cv-00514-LRH-WGC

ORDER

In this habeas corpus action, on September 17, 2020, the Court appointed counsel for the petitioner, Bryan Eagles. See Order entered September 17, 2020 (ECF No. 4). Counsel—the Federal Public Defender for the District of Nevada—appeared for Eagles on October 15, 2020 (ECF No. 7). The respondents have also appeared (ECF No. 6). Therefore, the Court will set a schedule for further proceedings in this action, as follows:

Filing Fee. Petitioner will have 45 days from the date of this order to pay the \$5 filing fee for this action, or to file a new, complete application to proceed *in forma pauperis*.

Amended Petition. If necessary, Petitioner shall file an amended petition for writ of habeas corpus within 90 days from the date this order. The amended petition must specifically state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition must state how, when, and where that occurred. If Petitioner determines that an amended petition need not be filed, then, within 90 days from the date of this order, Petitioner shall file a notice to that effect.

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1 Response to Petition. Respondents will have 60 days following filing of the
2 amended petition to file an answer or other response to the amended petition. If
3 Petitioner does not file an amended petition, Respondents will have 60 days following
4 the due date for the amended petition to file an answer or other response to the original
5 petition.

6 Reply. Petitioner will have 45 days following filing of an answer to file a reply.
7 Respondents will thereafter have 30 days following filing of a reply to file a response to
8 the reply.

9 Briefing of Motion to Dismiss. If Respondents file a motion to dismiss, Petitioner
10 will have 60 days following filing of the motion to file a response to the motion.
11 Respondents will thereafter have 30 days following filing of the response to file a reply.

12 Discovery. If Petitioner wishes to move for leave to conduct discovery, Petitioner
13 must file such motion concurrently with, but separate from, the response to
14 Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for
15 leave to conduct discovery filed by Petitioner before that time may be considered
16 premature, and may be denied, without prejudice, on that basis. Respondents must file
17 a response to any such motion concurrently with, but separate from, their reply in
18 support of their motion to dismiss or their response to Petitioner's reply. Thereafter,
19 Petitioner will have 20 days to file a reply in support of the motion for leave to conduct
20 discovery.


21 Evidentiary Hearing. If Petitioner wishes to request an evidentiary hearing,
22 Petitioner must file a motion for an evidentiary hearing concurrently with, but separate
23 from, the response to Respondents' motion to dismiss or the reply to Respondents'
24 answer. Any motion for an evidentiary hearing filed by Petitioner before that time may
25 be considered premature, and may be denied, without prejudice, on that basis. The
26 motion for an evidentiary hearing must specifically address why an evidentiary hearing
27 is required and must meet the requirements of 28 U.S.C. § 2254(e). The motion must
28 state whether an evidentiary hearing was held in state court, and, if so, state where the

1 transcript is located in the record. If Petitioner files a motion for an evidentiary hearing,
2 Respondents must file a response to that motion concurrently with, but separate from,
3 their reply in support of their motion to dismiss or their response to Petitioner's reply.
4 Thereafter, Petitioner will have 20 days to file a reply in support of the motion for an
5 evidentiary hearing.

6 Finally, the Clerk of the Court is directed to update the docket for this case to
7 reflect that the correct name of the respondent warden of Ely State Prison is William
8 Gittere.

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10 **IT IS SO ORDERED.**

11 DATED this 19th day of October, 2020.

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14 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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